

January 1945

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Recommended Citation

Frank Swancara, Bishop Rice Released a Telegram, 22 Dicta 189 (1945).

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ered; how many interruptions were avoided; how many briefs were better because concentration was more easily attained. But let us recognize our blessings while we have them. We cannot yet see the stubborn and unlovely face of the opponent to whom we are telephoning, nor can he see the wink with which we accompany our grave statement to him of the weakness of his position. When practicing law by television becomes possible, may I have the fortitude to stick to the humble telephone with all its shortcomings. And I trust no reader of this article will tell Mr. Philip C. Staples that I am a dissatisfied customer of the Bell Telephone Company, for I cannot spare the homely instrument which has inspired this article.

Bishop Rice "Released" a Telegram

(A Lesson in Constitutional Law)

BY FRANK SWANCARA*

When it became noticed in the press that some persons were objecting to the appointment of Mr. Aubrey Williams as Administrator of the REA only because of some alleged changes or modernism in his theological opinions, Frank H. Rice sent a telegram to Senator Johnson, urging support of Mr. Williams. The contents of the message were telephoned to every news agency.

The radio and the press failed to quote, or even to mention, the telegram of Bishop Rice. But that ignored and unnoticed document could have been the exordium of a lecture on constitutional law. If Mr. Williams had been aspiring to a state office in Tennessee, his opponents might have invoked against him that part of the Tennessee constitution which provides:¹

"No person who denies * * * a future state of rewards and punishments, shall hold any office in the civil department of this state."

It seems, also and therefore, that the bar of Tennessee, under oath to support the constitution, is obliged to search for, and oppose, any candidates who deny, either by words or conduct, a "future state of * * * punishments." They must keep off the ballot the name of any Jewish aspirant, for presumably they know that the highest court of North Carolina said:²

"We know that the Old Scriptures, which is the Hebrew Bible, does not teach a future life."

*Of the Denver, Colorado, bar.

¹Art. IX, sec. 2, Const. 1870.

²Lady Lisle's Trial, 11 Howell's State Trials 325, as quoted in sec. 1816 Wigmore on Ev. (2d ed).

The phrase "future state of punishments" means what one court referred to as a "bottomless lake of fire and brimstone."³ Authoritative catechisms say that the victims are "for all eternity * * * in dreadful torments."⁴

Tennessee is not alone. Profound Philadelphia lawyers agree that the constitution of their state contains this provision:⁵

"That no person who acknowledges * * * a future state of * * * punishments, shall * * * be disqualified to hold any office."

Prior to 1877, New Hampshire went even further and required the governor and legislators to be "Protestant."⁶

In Arkansas, North Carolina, South Carolina, Maryland, Mississippi, and Texas an office holder must profess monotheism in some form. Yet Mechem on Public Officers says that "religious beliefs or opinions cannot be a test of political rights and privileges."

No religious test is required of a draftee or volunteer for the army. He may take the danger, privilege, or necessity of dying in battle without regard to his eligibility to hold office in the states named.

Frank H. Rice would have sponsored a memorial meeting in honor of Pvt. Paul F. Nelson, whose mother, prior to his being killed in action, was deeply grieved over the insulting propaganda that atheists do not appear in fox-holes.⁷ Had that soldier returned alive, he would have been barred from office-holding in the states named.

Very few persons would ever attend a meeting advertised by Bishop Rice, but that situation did not entirely suppress whatever truth the Liberal Church had to offer. One time the material, ignored locally, was submitted to the *St. Louis Law Review*, and published.⁸ Dean Wigmore at once added it to the notes for section 1827 of his work on Evidence, 2d ed.⁹ That is the article which is the basis for this paper.

Bishop Rice fought for tolerance and equality. He did more than give ecclesiastical titles to "newsmen" and others.¹⁰

⁴Of course there is such a place, for where else would Hitler belong? And where can the Coolidge "prosperity" now be? Doubters may consult a definition in 39 C. J. S. 887, and note 80.

⁵Art. I, sec. 4, Const. 1874.

⁶Const. 1784; *Hale v. Everett*, 53 N. H. 9.

⁷*State v. Pitt*, 166 N. C. 268, 271, 80 S. E. 1060 (1914).

⁸72 *The Truth Seeker* (N. Y.) 90 (June, 1945).

⁹18 *St. Louis Law Rev.* 105 (Feb., 1933).

¹⁰1934 *Supp. to Wigmore on Ev.* (2d ed.).

¹⁰And who would not, if he could, give a title to a cigarette jobber or a wholesale liquor dealer?

[Editors Note: See DICTA, May, 1945, p. 117.]

Personals

John E. Gorsuch, Denver, and Frederic L. Kirgis, former First Assistant Solicitor of the Department of Interior and recently Special Assistant to the United States Attorney General, have formed a partnership under the name of Gorsuch & Kirgis, with offices in the First National Bank Building, Denver.

J. Churchill Owen, Denver, former Assistant General Counsel to the War Production Board in Washington, has rejoined the firm of Dines, Dines & Holme, Denver.

I. R. ("Red") Schwartz, former District Enforcement Attorney for Office of Price Administration, has opened an office at 405 University Building, Denver.

Clarence L. Ireland and Gail L. Ireland, both former Attorneys General of Colorado, have formed a partnership under the name of Ireland and Ireland, with offices in the Midland Savings Building, Denver.

Lieutenant Colonel Teller Ammons headed a committee to arrange for a Colorado Day celebration on August 5th on the island of Guam. Several Denver men assisted him in the arrangements.

Charles Rosenbaum, Denver, and Ralph L. Carr, Antonito, have been re-appointed by Governor Vivian to the State Board of Standards of Child Care for terms expiring July 27, 1947.

Colonel Charles D. Bromley, Denver, has been promoted recently from the rank of Lieutenant Colonel. Colonel Bromley has been overseas two and one-half years and is attached to the Southwest Pacific Headquarters in Melbourne, Australia, as a lend-lease officer.

John F. Wilson, Denver, formerly of Grand Junction, has been appointed Assistant Attorney General of Colorado, and assigned to the Revenue and Game and Fish Sections

Gordon W. Johnston, Professor at the Denver University School of Law since 1932, has been named Deputy of the Western Province of Omicron Delta Kappa. He succeeds Roger H. Wolcott, dean emeritus of the Law School, who resigned as deputy because of ill health.

Colorado Bar Association
Annual Meeting

October 18, 19 and 20

at the Broadmoor Hotel

Colorado Springs, Colorado

*Furthur Details of Program
in the Sept. Issue of DICTA*



Write immediately for reservations